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SUMMARY RECORD OF THE 40th MEETING

Chairman: Mr. KUKAN (Slovakia)

later: Mr. VAN DER HEIJDEN (Netherlands)
(Vice-Chairman)

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The meeting was called to order at 10.20 a.m.

AGENDA ITEM 114: HUMAN RIGHTS QUESTIONS (A/48/58-S/25024, A/48/63, A/48/68, A/48/74-S/25216, A/48/75-S/25217, A/48/77-S/25231, A/48/88-S/25310, A/48/93, A/48/94, A/48/113-S/25397, A/48/116, A/48/120, A/48/125, A/48/136, A/48/152, A/48/174, A/48/176-S/25834, A/48/177-S/25835, A/48/181, A/48/184, A/48/201, A/48/203-S/25898, A/48/211, A/48/214, A/48/217-S/25986, A/48/222, A/48/261-S/26073, A/48/262, A/48/273, A/48/291-S/26242, A/48/294-S/26247, A/48/302, A/48/307, A/48/330, A/48/355-S/26390, A/48/357, A/48/370, A/48/394, A/48/395-S/26439, A/48/396-S/26440, A/48/401, A/48/446, A/48/484, A/48/496 and A/48/564)

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AGENDA ITEM 115: SITUATION OF HUMAN RIGHTS IN ESTONIA AND LATVIA (A/48/82, A/48/156, A/48/208, A/48/220, A/48/223, A/48/259 and A/48/511)

AGENDA ITEM 172: NECESSITY OF ADOPTING EFFECTIVE MEASURES FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CHILDREN THROUGHOUT THE WORLD WHO ARE VICTIMS OF ESPECIALLY DIFFICULT CIRCUMSTANCES INCLUDING ARMED CONFLICTS (A/48/242; A/C.3/48/1/Add.1)

1. Mr. FALL (Assistant Secretary-General for Human Rights) said that 1993 had been a critical year in the struggle for human rights because the World Conference on Human Rights, the first such high-level meeting devoted to that question since the end of the Cold War, had been held in June at Vienna. He recalled how long and difficult the preparations for that Conference had been because of differences of opinion among the various participants. The question of the Conference agenda, which had not been resolved during the Preparatory Committee's third session in September 1992, had finally been settled by the General Assembly in resolution 47/122 and its annex. During the fourth and final session in May 1993, the Committee had had to prepare a final draft. A draft (A/CONF.157/PC/98), based on ideas put forward during regional meetings and the suggestions contained in many reports from Governments and organizations throughout the world, had been adopted by consensus even though points of disagreement had remained regarding, for example, the question of the universality of human rights and respect for particularities, self-determination, identification of obstacles to the full exercise of human rights, the practical content of the relationship between development, democracy and human rights, institutional reform of the United Nations and especially structural coordination in human rights matters, usefulness and timeliness of new institutions and the budget for the United Nations human rights programme. During the Conference, consensus had been finally reached on all those items,

and the Vienna Declaration and Programme of Action had been adopted. Drawing attention to the detailed analysis of that Declaration in the Secretary-General's report on the work of the Organization (A/48/1, paras. 253-275), he said that he would limit his remarks to the main recommendations and procedural proposals which the Vienna Conference had addressed to the General Assembly.

2. The Conference had requested the General Assembly to adopt immediate measures to increase substantially the resources allocated to the human rights programme in the Organization's regular budget both currently and in the future, and to secure an increase of extrabudgetary resources. In addition, it had asked the Assembly to ensure that the Centre for Human Rights received the human, financial and other resources it needed for proper, effective and rapid execution of its mandates.

3. The Conference had also recommended to the General Assembly that it should proclaim three decades: one relating to the world's indigenous people, one for human rights education and one for human rights.

4. As to new institutions, after urging the International Law Commission to continue its work on an international criminal court, the Conference recommended that the General Assembly should, as a matter of priority, begin consideration of the question of the establishment of a High Commissioner for Human Rights to promote and protect all human rights.

5. In order to give practical form to the decisions of the Vienna Conference, the Secretariat, in co-operation with the structures and specialized agencies concerned, had begun a preliminary analysis of the follow-up to the Vienna Declaration and Programme of Action for the short, medium and long term. The promotion and protection of all human rights and fundamental freedoms was a universal mandate to which all peoples of the world and all States Members of the United Nations should devote themselves on the eve of the forty-fifth anniversary of the Universal Declaration of Human Rights.

6. The fundamental and principal theme of the Vienna Conference had been the triptych of human rights, democracy and development, centred on an important factor of development and the full realization of all human rights, namely, popular participation in all its forms. Since the Commission on Human Rights had not considered that question since 1991, it would be appropriate for the General Assembly to request the Commission to resume study of it, by, for example, incorporating the question into the mandate of the Working Group on the right to development.

7. Administration of justice played a central role in the promotion and protection of human rights. As indicated in the Secretary-General's report (A/48/575), the Centre for Human Rights had assisted several States, at their request, to incorporate international human rights standards into their national laws and to establish national institutions for the protection and promotion of human rights. Various working groups, inter-agency meetings and ad hoc consultations had been organized with a high level of participation by competent United Nations bodies, specialized agencies and the Centre for Human Rights,

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including representatives from the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs. Given the important role which national institutions played in that area, the General Assembly had repeatedly urged Member States to establish such bodies, to strengthen them if they were already in place and to make room for them in national development plans. As a result, many Member States had subscribed to the idea of a national institution as machinery for the protection of human rights and the dissemination of human rights principles. The Centre for Human Rights had furnished material support to those States desiring it and would continue its work in that field. Based on the guidelines issued by the Vienna Conference, an action plan for developing and strengthening national institutions was being drafted and would be submitted for review to the representatives of those institutions during the follow-up meeting scheduled to be held at Tunis from 13 to 17 December 1993.

8. The year 1993 had been marked by two important events regarding the right to development. First, the Commission on Human Rights, in its resolution 1993/22 had decided to establish, for a three-year period, a working group on the right to development which was to be composed of fifteen experts and would have a twofold mandate: to identify obstacles to the implementation of the Declaration on the Right to Development, and to recommend ways and means towards the realization of that right by all States. Second, the World Conference on Human Rights had reaffirmed the right to development as a universal and inalienable right and an integral part of fundamental human rights, and had added that lasting progress towards the realization of that right required effective development policies at the national level and equitable economic relations and a favourable economic environment at the international level. Those two decisions by the Commission and the Vienna Conference, which placed the right to development at the centre of practical thinking, were full of potential for constructive action at the international and national levels.

9. The children of the world, in particular street children, should be the first to benefit from the realization of the right to development. There were currently between 100 and 150 million street children, of whom more than 40 per cent had to resort to prostitution to survive. In some countries, those children were subjected to cruel and inhuman treatment. Furthermore, poverty and underdevelopment had led to an exodus from the countryside to the large cities which only aggravated the problem. The Working Group on Contemporary Forms of Slavery of the Subcommission on Prevention of Discrimination and Protection of Minorities had therefore decided to devote particular attention to the tragic fate of street children at its next session.

10. He recalled that the fundamental factors that negatively affected the observance of the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes were reviewed annually by the Commission on Human Rights, as requested by the General Assembly. In his report on that subject (A/48/425), the Secretary-General pointed out that, at its forty-ninth session, the Commission had considered a number of country situations which involved questions relating to the organization and holding of elections, and that a number of resolutions had been adopted to guarantee the

free expression of the electoral will of peoples and ensure respect for national sovereignty and non-interference.

11. Given the increasing frequency of conflicts affecting minorities, conflicts which often led to violence, it was no longer necessary to emphasize the importance of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in 1992. The report of the Secretary-General on that subject (A/48/509 and Add.1) noted the various proposals put forth by the Commission on Human Rights, the Subcommission on Prevention of Discrimination and Protection of Minorities and the Special Rapporteur of the Subcommission, proposals which, it was hoped, would serve as a basis for specific action aimed at enhancing the implementation of the Declaration.

12. He reminded the Third Committee that it had received various reports regarding persons displaced inside their own countries, reports which related specifically to the situation of human rights in Afghanistan, Cuba, Haiti, Iraq, the Islamic Republic of Iran, Myanmar, South Africa and the Sudan. Reports on the situation in other countries examined within the framework of the special procedures of the Commission on Human Rights would be submitted to the Commission at its fiftieth session in February 1994, or to the Special Political and Decolonization Committee at the forty-eighth session of the General Assembly.

13. The Commission on Human Rights had entrusted special rapporteurs and working groups with 23 mandates, requesting that they investigate serious violations of human rights in specific countries or territories or incidences of major violations such as forced disappearances, torture, extrajudicial executions, arbitrary detention or cruelty to children. Fourteen additional reports had been requested in 1993 from the Secretary-General and missions had been sent to 34 countries during the first 11 months of the year; some 10 or so more visits were scheduled before the fiftieth session of the Commission in February 1994.

14. Without dwelling on the nine reports that were to be submitted to the Third Committee, he drew the attention of the members of the Committee to the report of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia. That recent report (E/CN.4/1993/50), which had been submitted to the Commission on Human Rights, contained an overview of the current situation relating to human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro).

15. Turning to agenda item 115 on the situation of human rights in Estonia and Latvia, he referred to General Assembly resolution 47/115 and said that, pursuant to that resolution and at the invitation of the Government of Estonia, the Secretary-General had sent a fact-finding mission to Estonia to investigate alleged discriminatory practices against minorities. The mission had visited Estonia from 7 to 11 February 1993 and had then gone to Moscow for consultations on 12 February. Its report had been issued as document A/48/511. With respect to the situation in Latvia, he said that the Secretary-General wished to

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reiterate the conclusions and recommendations reached by the fact-finding mission sent to that country, which had been presented to the General Assembly at its forty-seventh session in document A/47/748.

16. In conclusion, while welcoming the progress so far achieved, he urged all countries, all peoples and all international, national and non-governmental organizations to work together so that all people might finally see the realization of all their fundamental, civil and political, economic, social and cultural rights before the new millennium.

17. Mr. PARSHIKOV (Russian Federation) asked the Assistant Secretary-General for Human Rights whether he believed that the report of the fact-finding mission sent to Latvia approximately a year earlier and to Estonia some time later objectively reflected the current situation.

18. Mr. FALL said that the reports on Latvia and Estonia dated back to October 1992 and February 1993 respectively. The period since that time, although relatively short, had been rich in political events, both on the internal level (including the holding of elections) and on the international level (taking into account the relationship with the Russian Federation), which might either confirm or belie the report on the situation as it was at the time. It was up to each Member State to form an opinion as to whether those changes, which were real, had seriously altered the situation in those countries.

19. Mr. FERNANDEZ PALACIOS (Cuba) asked the Assistant Secretary-General for Human Rights why reports on the situation of human rights in certain countries which did not appear on the agenda of the Third Committee would be submitted to the Commission on Human Rights at its fiftieth session or considered by the Special Political and Decolonization Committee at the current session of the General Assembly.

20. Mr. FALL explained that there were three types of reports. Some reports were submitted both to the General Assembly and to the Commission on Human Rights (as in the case of reports submitted to the Third Committee). Others were submitted to the Special Political and Decolonization Committee (for example, the report on Israeli practices affecting the human rights of the Palestinian people and other Arabs of the occupied Territories). Finally, some reports were submitted only to the Commission on Human Rights (such as the reports on the situation of human rights in Equatorial Guinea, in the territory of the former Yugoslavia and in El Salvador).

21. Mr. SCHOLTEN (Austria), Federal Minister for Education and the Arts, referring to item 114 (b), said that his country was committed to the full implementation of the decisions taken at the World Conference on Human Rights, which his country had hosted in June 1993, and to ensuring their adequate follow-up. The Conference had brought together some 2,700 representatives of non-governmental organizations from all parts of the world and enabled them to interact with the Conference, as well as to lay the foundations for mutual cooperation activities, thus creating a new global human rights community.

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22. His country had prepared a draft resolution which took note of the report of the World Conference on Human Rights and endorsed the Vienna Declaration and Programme of Action. Once adopted by the General Assembly, the Declaration and the Programme of Action would represent the guiding document for the strengthening of future human rights work to be undertaken both by States and by the United Nations itself. Based on the universal Declaration of Human Rights, the International Covenants and the Proclamation of Teheran, the text set forth human rights agenda of the international community for the 1990s and beyond. The document was action-oriented and forward-looking. It spelled out not only the basic principles in the field of human rights but also a comprehensive programme of action containing numerous important recommendations to be carried out by States, the United Nations and other international, national and non-governmental bodies. It reaffirmed the universal character of human rights, as well as the legitimacy of the concerns expressed about them not only by individuals and States, but by the entire international community. It established the important interrelationship between development, democracy and human rights, and underscored the obligation of States to take concerted action in order to protect particularly vulnerable groups. The Declaration also stressed the need to fight all forms of racism, discrimination, xenophobia and intolerance, and to protect minorities. His country was circulating a draft resolution on that latter subject which took the outcome of the Vienna Conference into account.

23. He recalled that the Conference had recommended that a human rights High Commissioner should be appointed, and hoped that on completion of its work, the Committee would be in a position to achieve substantive results on the mandate of the High Commissioner, on his or her relationship with the United Nations system and on the resource implications involved in the creation of the post.

24. Austria attached particular importance to the issue of the abuse, neglect and exploitation of children and welcomed the growing determination of the international community to put an end to such practices, which was demonstrated by the immediate consensus reached on the relevant parts of the Vienna Declaration. His delegation noted with satisfaction the concrete measures already adopted by a certain number of countries with respect to following up the recommendations of the Conference on that question.

25. He was particularly satisfied with the attention the World Conference on Human Rights had devoted to human rights education. At the beginning of 1993, a conference on human rights had been organized on the model of the United Nations Conference, involving pupils and students from all parts of Austria, and had elicited impressive enthusiasm by all those taking part. It had demonstrated that human rights education for the young people of today was one of the keys to the protection and promotion of human rights tomorrow.

26. Mr. van der STOEL (Special Rapporteur on Human Rights) submitting his report on the human rights situation in Iraq (A/48/600), said that the actions of the Iraqi Government confirmed that it still had no inclination to comply with Security Council resolution 688 (1991) nor to the numerous resolutions

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adopted by the General Assembly and the Human Rights Commission demanding an end to human rights violations. Repression was continuing, and in certain spheres it had become worse, particularly with regard to the southern marshes. While there had been no further aerial attacks in the region since the declaration of a no-fly zone in 1992, attacks on civilian targets using ground-to-ground artillery were continuing and being intensified. That had been corroborated by eye witness accounts, by video recordings and by aerial photographs. There had also been a continuation of arbitrary killings, and he noted in that regard a decree dated 31 December 1992 of the Revolutionary Command Council which granted impunity to members of the Baath Socialist Party and to "popular patrols" who might be involved in the killing or wounding of individuals in the course of security and reconnaissance missions; the army in its turn was engaging in abuses in an effort to control the southern marsh area. The team of monitors sent to the Iran-Iraq border to question Iraqi refugees had pointed out that the accounts which had been gathered indicated that there was indeed a blockade on food supplies in the southern marsh area. Currently, 40 per cent of the marshes had been drained, and quite apart from the potential environmental consequences the effects of the situation on the Marsh Arabs driven from the area due to hunger gave cause for concern. Iraq officially claimed that the measures in question were being taken against saboteurs, deserters and infiltrators, but that claim was contradicted by the testimony gathered along the Iran-Iraq border. The village of Al Agar (para. 18 of his report) was an example. With regard to the policy of drying the marshes, the Iraqi Government had begun by saying that it was part of a deliberate development policy aimed at washing away salt-encrusted soils, reclaiming land for cultivation and increasing water available for irrigation. However, the Government was now maintaining in a letter dated 1 November 1993 that the drainage currently taking place was the result of the significantly lower water level in the Euphrates due to the construction and operation of the Keban and Karakaya dams in Turkey and the Tabqa dam in Syria, as well as the filling of the giant Atatürk Dam in Turkey. The Special Rapporteur, in an attempt to clarify matters, had obtained the opinion of experts who had explained that 10 to 15 per cent of the drop in the water level could be attributed to the construction of the dams in Syria and Turkey. There was moreover, proof that the Iraqi Government was indeed preventing water from the tributaries of the Tigris from flowing into the Amara Marshes.

27. In the north of the country, the Iraqi Government continued to use artillery against agricultural holdings and communities in the northern Governorate, in an effort to couple general destabilization with economic destabilization - for on 5 May 1993, the Iraqi Government had withdrawn and invalidated the 25 Iraqi dinar banknote, and that had greatly harmed trade, especially with regard to the Kurds in the north.

28. Despite the fact that it complained bitterly of the United Nations embargo and sanctions, the Iraqi Government had itself imposed an internal blockade of a much more serious nature. The Kurds were subject to much harsher food rationing measures than the rest of the population. The Iraqi Government had cut electricity in the Dohuk area with serious consequences for pumping facilities and hospitals.

29. In a letter dated 4 November 1993 (A/48/600/Add.1), the Iraqi Government had referred to the tragic situation in the fields of health and the supply of food and medicine owing to the ongoing embargo imposed on Iraq. According to the Special Rapporteur, Iraq was primarily responsible for that situation, since it still refused to take advantage of Security Council resolutions 706 (1991) and 712 (1991) which allowed it to finance the purchase of foodstuffs and medical supplies from the proceeds of its petroleum sales.

30. Despite his two written requests to the Iraqi Government, he had not received authorization to travel to Iraq. He requested the international community to put pressure on Iraq to accept the idea of impartial international observers who would go to the country with the aim of assessing the situation. Whatever the demands placed on the international community by crises elsewhere, it should give priority to Iraq, where the prevailing situation was in his view worse than any witnessed since the Second World War.

31. Mr. ERMACORA (Special Rapporteur of the Commission on Human Rights), introducing his ninth report on the human rights situation in Afghanistan since 1984, explained that from the outset he had tried to accomplish his mission in the most objective manner possible. Having visited the region twice a year, he had met regularly with representatives of the Afghan and Pakistani governmental authorities, who had always been most cooperative, and of the Government of the Islamic Republic of Iran. He had visited refugee camps in Pakistan and in Iran, Afghan prisons and hospitals. He had been in the Afghan capital as well as several other towns. In 1993, he had gone to Kabul for the first time since the Afghan Islamic revolution of April 1992, as well as Jalalabad and Herat.

32. Although the media in the West followed the events in Bosnia and Herzegovina closely, they virtually disregarded the fate of the Afghan people. For instance, there had been no mention of the incident reported in The News of Islamabad on 3 November 1993, concerning the 14 people who had been thrown from the second storey of a building for not praying. There was also scant coverage of the fighting currently taking place in the Kapisa province, north-east of Kabul, where hundreds of civilians had recently been killed.

33. Fighting had become a constant pattern of behaviour in Afghanistan. At the time of the former Government and the foreign occupation of the country, the conflict had been international in nature and had been characterized as a holy war. Currently, it was a constant struggle for political power that was essentially of an internal nature. However, the armed struggle for power, which had caused thousands of casualties and was destroying a sizeable part of Kabul and other towns, had prompted neighbouring States to intervene politically in an attempt to find a solution to the conflict. The good offices had resulted in the conclusion of the Islamabad and Jalalabad accords, which provided the political framework for a peaceful solution. They provided, inter alia, for the establishment of an electoral commission and a supreme council entrusted with the drafting of an Islamic Constitution. Those bodies had been unable to complete their task within the prescribed deadlines and the recently drafted interim constitution, which had not been dealt with in his report, had not yet met with unanimous approval.

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34. Since the representatives of the political groups had been unable to resolve their differences by peaceful means, despite the texts and schedules adopted to that end, the recourse to military means and their dire consequences had been unavoidable: thousands of civilians had been killed and wounded and neighbourhoods destroyed; the economic situation in many parts of the country was disastrous and the population lived in constant fear.

35. In his view the root cause of the problems in Afghanistan was the lack of an effective central government that could guarantee respect for human rights, and without which the adherence by the Government to the relevant international instruments had no practical value. Kabul was governed by several groups which controlled different sectors. The President exercised authority over only a small part of the capital and the Prime Minister, who was unable to enter Kabul for security reasons, was based 25 kilometres from the city. The armed groups belonging to the Prime Minister and the President respectively were engaged in combat, while armed factions with other political ties controlled the remaining areas of the city.

36. The situation was different in the provinces. Commanders or administrators who wielded both political and military power controlled areas which sometimes extended beyond the boundaries of a single province. The fragmentation of power and lack of a centralized administration led to strife which had a negative impact on law and order and security conditions in general. For instance, it was impossible in such conditions to combat the production of and trafficking in narcotics that had spread throughout the country. Legal authority was fragmented on account of the absence a centralized judicial system, which combined with the lack of any guarantee of respect for human rights contributed to the multiplicity of approaches to the fundamental issues of civil, political, economic, social and cultural rights. Parallel systems of administration of justice were being established. Although the so-called governmental forces had no special prisons for political detainees, individual political parties had prisons and kept prisoners, to which the Special Rapporteur and the International Committee of the Red Cross had thus far been denied access.

37. Since the Government was unable to guarantee the right to life, massacres were not infrequent, such as the one which had taken place in February 1993 in the Afshar neighbourhood of Kabul, or the killing of hundreds of people in November 1993 in Kapisa province. During such incidents, indiscriminate killing, rape, torture and looting, regardless of ethnic origin, had frequently been reported.

38. The right to freedom of opinion and the right to seek, receive and impart information were exercised only by the few powerful groups which had their own media. In Kabul, one television station was controlled by the President, and the other by the Prime Minister. Television stations in the provinces were run by the regional authorities. The shura system of government did not guarantee the plurality of information.

39. The situation hampered the right to education; schools were being converted into shelters for displaced persons and were no longer able to serve their

purpose. University life was practically non-existent in Kabul as far as medical, technical and law studies were concerned. One hundred and fifty university teachers had fled Kabul during the most recent fighting. The situation would appear to be somewhat better at the University of Nangarhar, in Jalalabad.

40. Since the administration of justice was completely decentralized and based on legislation issued by former Governments, with the exception of provisions expressly abrogated on account of their incompatibility with Islamic law, it was doubtful that such legislation was respected even in regions which were not under Government control. In the circumstances, it was not surprising that those who committed atrocities, particularly against women, were not prosecuted. While the Government which had come to power in 1992 had not pursued a systematic policy of revenge against persons associated with the former regime, it was unable to prevent the daily violations of human rights and several specific cases of retaliation had in fact been reported.

41. The absence of an organized economy and the destruction of the economic infrastructure hindered the exercise of economic and social rights in Afghanistan. The Afghan currency was still printed in Russia and it was the President's prerogative to authorize such printing.

42. As to cultural rights, it appeared that the Kabul Museum had been partially destroyed and pillaged, hence the recommendation in his report that UNESCO should be invited to study the question of Afghanistan's cultural heritage and in particular the situation of the Kabul Museum.

43. Given the human rights situation in the country, it was understandable why the massive repatriation of Afghan refugees started in 1992 had not continued. Only 1,200,000 Afghans had returned to their homeland; more than 3 million remained abroad. The speed of mine clearing had not been stepped up and the process of reconstruction was not keeping pace with the massive destruction of houses, villages and towns throughout the country. In fact, new refugees had flooded into Pakistan and the number of internally displaced persons in Afghanistan had increased. The new wave of refugees, which numbered several tens of thousands, was composed primarily of urban professionals from Kabul, whereas the earlier refugees had come chiefly from rural areas. The situation of the refugees and displaced persons was disastrous, as indicated in paragraphs 48 and 49 of the report.

44. Although the United Nations agencies providing humanitarian aid had recently increased their presence in Kabul, the actual assistance they could offer was not proportionate to the needs of the country. The reports of the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan were very informative in that regard.

45. He then drew attention to two questions concerning human rights: the fate of the former Afghan President, Mr. Najibullah, and that of the Soviet prisoners of war who had not yet been released. The cases of several hundred such prisoners were still pending, although under international humanitarian law

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combatants must release their prisoners when the conditions laid down in the Geneva Conventions were fulfilled. The prisoners in question were still being held hostage and he therefore requested that they be released as soon as possible.

46. Another delicate matter of particular concern was Mr. Najibullah's continued presence at Kabul. In that connection, it should be recalled that the general amnesty proclaimed in April 1992 by the former President, Mr. Mojjadidi, provided for no exceptions. The Council for solving problems and negotiating agreements (Shura-Ahl-e-Hal Wa Aqd) had met sometime later, but had been boycotted by the leaders of five out of nine political parties in Afghanistan. The Council had decided that the former Presidents, Mr. Najibullah and Mr. Karmal, should be prosecuted. There was a dispute as to the validity of that decision, but the amnesty decree itself had been unanimously adopted by the legitimate Government. He wished to draw attention to Mr. Najibullah's state of health, which was an additional humanitarian reason to justify the granting of amnesty.

47. He concluded by making three recommendations. The United Nations should continue to be vigilant with regard to the human rights situation in Afghanistan in order to make the Afghan people, who had been suffering for more than 10 years, aware that the United Nations was not indifferent to their fate. The report (A/48/584) should be translated into the Dari language so that it could be read by everyone in the region. The Secretary-General should be called upon to use his good offices to bring the warring sides to the negotiating table and encourage them to find a political solution to the dispute by peaceful means and not through the use of weapons.

48. Mr. Van Der Heijden (Netherlands), Vice-Chairman, took the Chair.

49. Mr. ERMACORA (Vice-Chairman of the Ad Hoc Working Group of Experts on Southern Africa) introducing the report on the situation of human rights in South Africa (A/48/525) on behalf of the Ad Hoc Working Group of Experts, said that the report essentially reflected the findings of a mission to Botswana and Zimbabwe in August 1993 and evaluated the human rights situation in South Africa between February and September 1993. Despite resolution 1993/9 of the Commission on Human Rights, in which the Commission renewed its request to the Government of South Africa to allow the Ad Hoc Working Group of Experts to visit South Africa and to cooperate with it, and despite several informal contacts during the course of 1993, the Working Group had received no written response. However, through informal contacts with the Permanent Representative of South Africa at Geneva, the Working Group had learnt that a visit to South Africa would not be possible in view of the delicate situation which existed in that country.

50. Subsequent events, especially the adoption of an interim constitution and the creation of an independent electoral commission, would be analysed in the interim report of the Working Group to the Commission on Human Rights at its fiftieth session.

(Mr. Ermacora)

51. Despite the positive steps towards political reconciliation, the continuing violence was a cause of great concern, since 554 deaths had been recorded in August 1993 alone and the Human Rights Commission of South Africa had reported that 2,000 people had been killed in political and other violence during the first seven months of 1993, while close to 3,000 had been injured. The Working Group hoped that the formation of a national defence force with components from different groups would have a restraining influence on incidents of that nature. It further believed that the speedy trial and conviction in October 1993 of the two accused of the murder of Chris Hani, Secretary-General of the South African Communist Party, indicated a willingness to combat political violence in the country.

52. The agreement reached on 17 November 1993 within the Negotiating Council on an Interim Constitution, supported by 21 parties, was a major step forward. It was hoped that the Freedom Alliance would also associate itself with the agreement, thus leaving the way clear for the South African Parliament, which was currently in session, to adopt the electoral bill, which would allow the elections scheduled for April 1994 to proceed.

53. The Working Group emphasized the need to give priority to the reincorporation of the 10 so-called "homelands" and urged the administrators of Bophuthatswana, Ciskei and Kwa Zulu to facilitate that process in order to achieve peaceful elections. It also hoped that account would be taken of the difficulties which residents of the so-called "homelands" would face in order to vote.

54. While encouraged by the many changes which were taking place in South Africa, the Working Group was particularly concerned about the fate of the 1 million farm workers and the 1 million domestic workers whose access to voting booths was not yet secured. The international community could play a key role in facilitating the electoral process. The Working Group was discouraged, moreover, by the continued manifestations of racial hatred and killings and by the reports it had received about the arbitrary behaviour of the security forces.

55. The Working Group was required to submit its final report to the fifty-first session of the Commission on Human Rights, in 1995, and a preliminary report to the General Assembly at its forty-ninth session. Since the reports would cover the period after the elections scheduled for April 1994, the Working Group, which had been monitoring the situation in South Africa for more than 26 years, was looking forward to making an important contribution in that final stage of the eradication of apartheid.

56. Mr. GROTH (Special Rapporteur of the Commission on Human Rights), introducing his report on the situation of human rights in Cuba (A/48/562), said that the introduction to the report spelled out the framework in which the report had been prepared and the reasons for its preparation.

57. The Government of Cuba refused to accept the decision of the Commission on Human Rights to monitor human rights conditions in that country and rejected

(Mr. Groth)

cooperation with the Special Rapporteur, on the grounds that the situation in Cuba did not warrant the attention given to it by United Nations human rights organs.

58. Since he had been unable to visit the country, he wished to refer to his report of the previous year and to repeat that the systematic and massive human rights violations committed in Cuba were different from those typical of other countries which were under the scrutiny of the United Nations. There were no arbitrary executions or enforced disappearances carried out by clandestine death squads. Nevertheless, the Cuban situation was serious because of the excessive control exerted over the population through institutionalized machinery. There was systematic violation of, inter alia, the right of freedom of opinion and expression and the right of freedom of association. There were also a substantial number of known cases of persons serving long prison sentences for nothing more than a simple expression of dissent or peaceful protest.

59. The report concluded that the judicial system and court procedures lacked objectivity and independence, at least in cases concerning State security. The Special Rapporteur's impression was that defendants did not receive a free and fair trial.

60. It was not within the mandate of the Special Rapporteur to pass judgement on the ideological basis or political aims of any State Member of the United Nations. However, it was his task to point to established practices by the authorities which amounted to violations of universally accepted human rights standards and, thus, to defend the basic human rights of citizens.

61. The report contained a number of recommendations directed to the Cuban Government, which were the same as those of the previous year, calling on the Government to: (a) ratify the principal human rights instruments to which Cuba was not a party; (b) cease persecuting and punishing citizens for reasons relating to the freedom of peaceful expression and association; (c) permit the legalization of independent groups, especially those seeking to carry out human rights or trade union activities; (d) respect the guarantees of due process, in accordance with the provisions set forth in international covenants; (e) ensure greater transparency in the prison system and, in that connection, renew the agreement with the International Committee of the Red Cross and allow independent national groups access to prisons; (f) review sentences imposed for offences with political connotations and for trying to leave the country illegally; (g) expedite and make more transparent the procedure for applying for permission to leave the country, while avoiding measures of retaliation against applicants. He noted that those recommendations did not in any way question the sovereign rights of the Cuban Government or the political system in place. The proposals were very limited in scope and were motivated purely by the desire to promote the full enjoyment of human rights. Since it was his view that external pressures contributed to the lack of freedom in Cuba, he noted with satisfaction the resolution which the General Assembly had recently adopted on that subject.

62. Mr. REMIRES DE ESTENOZ (Cuba) said that the report of the Special Rapporteur on the so-called situation of human rights in Cuba seemed to have become a kind of ritual that had nothing to do with reality. It would be hard to find anything in the report that could validate the accusations levelled against Cuba or that could justify the need for a Special Rapporteur. The members of the Committee knew that the real purpose of the report was to slander the political, constitutional and legal system of Cuba and provide a pretext for the submission of the draft resolution which the United States had already prepared.

63. In the 34 years during which it had waged a systematic policy of hostility and aggression against Cuba, had the United States not been responsible for the gravest human rights violations vis-à-vis more than 10 million Cubans, including 2 million children? Did not denial of a people's right to decide its own fate freely and to possess the means vital to its livelihood constitute a further flagrant violation of human rights? Did not the fact that, in essence, the report called into question the constitutional and legal order of a sovereign State and a Member of the United Nations, itself represent a flagrant violation of the very principles that governed the Organization and were the basis of its constituent Charter?

64. Those questions pointed up how lacking in moral, political and legal vision the United States was being and how irresponsibly it was acting in brandishing the human rights argument against Cuba. He wondered what the cost of that useless exercise had been and would be to the Organization's budget. As for the Cuban people, they had no intention of renouncing their rights or of allowing a great Power to belittle their institutions.

65. Mr. BRUNI CELLI (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Haiti), introducing the report on the human rights situation in Haiti (A/48/561) prepared in accordance with Commission resolution 1993/68, said that, throughout 1993, Haiti had been governed, directly or indirectly, by the military who had deposed President Aristide in September 1991. Basing their power on the use of weapons and the weakness of the political parties, on the retention of the section chiefs, on the merger of military and police functions, on their ability to practice repression with impunity, on the de facto or de jure privileges conferred upon them and on the considerable resources acquired through illegal trade, smuggling and customs duties, the military had exercised absolute power, even though they had put in place a civilian Government. A Government led by Mr. Marc Bazin had been in office up to May 1993, following which there had been a power vacuum until the signing of the Governors Island Agreements and the New York Pact and the appointment of Mr. Robert Malval as Prime Minister. The Government set up by Mr. Malval had never really been able to carry out its duties; it had been prevented from doing so by the military and the violent attacks of armed bands (the assassination of the Minister of Justice in October 1993 being an example).

66. One of the main features of the human rights situation in Haiti had been the installation of a civilian mission, under the auspices of the United Nations and the Organization of American States (OAS) whose mandate had included securing a reduction of violence and promoting respect for human rights. The mission, consisting of some 30 persons, was headed by Ambassador

(Mr. Bruni Celli)

Collin Granderson and included a team of human rights specialists headed by Mr. Ian Martin, the former Secretary-General of Amnesty International. The mere presence of the mission had produced some positive effects and attacks by armed bands had lessened slightly. Unfortunately, with the fresh outbreak of violence which followed the denunciation of the Governors Island Agreements, the members of the civilian mission had had to be evacuated from the country.

67. Throughout 1993, intense international pressure had been maintained on Haiti. The Secretaries-General of the United Nations and OAS had appointed the former Minister for Foreign Affairs of Argentina, Mr. Dante Caputo, as Special Envoy in charge of a mission to mediate between the military leaders of the coup and President Aristide. After innumerable journeys between Haiti and Washington, where he had talks with the two parties to the conflict, the Special Envoy had devised a plan providing for a return to democracy and reinstatement of President Aristide, deployment of a multinational police force, an amnesty and other guarantees for the members of the military involved in the coup, who were to resign, and a financial assistance programme of some $1 billion phased over five years.

68. The negotiations had been extremely difficult. The military had avoided any dialogue, made promises which they had not kept, flagrantly violated human rights and totally disregarded the members of the civilian mission. However, through the intensification of international pressure, the relative effectiveness of the embargo imposed on the country, and the skill, tenacity and powers of persuasion of the Special Envoy, the Governors Island Agreements had been signed, on 3 July 1993, under the auspices of the United Nations and OAS in the presence of the Special Envoy. The Agreements provided among other things for the opening of a political dialogue, the designation of a Prime Minister and his confirmation by Parliament, the lifting of sanctions, the establishment of an international cooperation programme, amnesty for the military leaders of the coup, the separation of the armed forces and police forces, the resignation of General Cédras and the appointment of a new Commander-in-Chief of the Armed Forces, the replacement of Colonel François as Chief of Police in Port-au-Prince, the return of President Aristide by 30 October and the verification of the Agreements by the United Nations and OAS. The Agreements, signed by President Aristide and General Cédras, concluded with an undertaking by the two parties to "cooperate fully in the peaceful transition to a stable and lasting democratic society".

69. Rarely had so solemn a promise been so shamefully betrayed. The military had neither relinquished power nor permitted the return of President Aristide, nor allowed the Prime Minister to govern, nor ceased their attacks on human rights, nor even opened a dialogue. When the Special Envoy went to Haiti shortly after the signing, he realized that the military had no intention of complying with the provisions of the Agreements and that violations of human rights had intensified.

70. For technical reasons, the report he had submitted ended at mid-October 1993. Since then, the military had decided to denounce the Agreements, to prevent the return of President Aristide and to step up

(Mr. Bruni Celli)

repression. According to information he had been able to obtain, the country no longer had a Government and was in the hands of armed groups (tontons macoutes, attachés, zenglendos) who sowed terror, used vehicles and weapons provided by the military and acted with complete impunity.

71. He recommended, among other things, that the General Assembly should deplore the failure to implement the Governors Island Agreements and express its deep concern at the attitude of the Haitian military who were opposing by force the restoration of the civilian Government; that the General Assembly should request the Security Council to maintain and even intensify the sanctions on the Haitian military regime and to seek new means whereby the international community would assist the Haitian people to free themselves from the reign of terror to which they were subjected and promote the installation of a civilian Government guaranteeing the enjoyment of fundamental human rights; that the United Nations should continue to observe and remain apprised of the human rights situation in Haiti for the purpose of recording and reporting violations, requiring the de facto regime to fulfil its constitutional obligations, helping to solve the serious problems facing Haitian society and informing Governments and the United Nations and OAS organs of the human rights situation in the country; that efforts to bring about national reconciliation should continue and the provisions of the Governors Island Agreements and the New York Pact should be regarded as a valid basis for future political negotiations aimed at finding a solution to the Haitian crisis; that the General Assembly should express its gratitude to the Special Envoy and the members of the civilian mission for their efforts to find a political solution and to defend the human rights of the Haitian people; that, once the internal situation permitted, the members of the civilian mission should return to Haiti and remain in the country even after democracy was restored; that, once the internal situation permitted, a programme should be established, with the participation of the Inter-American Commission on Human Rights, the Inter-American Institute of Human Rights and the Special Rapporteur, for the promotion and dissemination of human rights, aimed specifically at training the military, police and prison authorities and the members of governmental and non-governmental human rights organizations, and the political parties; and that, in view of the serious and very difficult human rights situation in Haiti, international monitoring of the situation by the General Assembly and the Commission on Human Rights should continue, under the agenda item "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

72. It was essential to continue monitoring the country's political, economic and social situation; only political pressure and, when the time came, aid, cooperation and technical assistance from the international community could restore to the Haitian people enjoyment of their fundamental rights and spark the process of development.

73. Mr. GALINDO POHL (Special Representative of the Commission on Human Rights) said that, in preparing his interim report on the situation of human rights in the Islamic Republic of Iran (A/48/526 and Add.1), he had drawn on various information sources, including the Iranian media. In view of the format rules

(Mr. Galindo Pohl)

of the relevant bodies, the part of the report on human rights violations consisted of a summary of the memorandum he had communicated to the Government of Iran. The Secretariat would make the unabridged text of the memorandum available to any delegations wishing to consult it. The replies of the Government of Iran, which had not been received by the prescribed deadline, were published in an addendum (A/48/526/Add.1) that was an integral part of the report.

74. In section IV, he highlighted the major considerations and assessed the situation on the basis of the information he had received. With respect to cooperation with the Government of Iran, the latter had responded officially to his memorandum but had yet to authorize his visit to the country. Before the present meeting, he had received assurances from the representative of Iran that cooperation would proceed smoothly.

75. The report mentioned the proposal made in Geneva by the Ambassador of the Islamic Republic of Iran to hold talks with delegations that usually sponsored draft resolutions on the human rights situation in Iran in order to arrive at a consensus resolution. Noting that a consensus resolution produced in 1991 had raised the Islamic Republic of Iran's cooperation on human rights to an unprecedented level, the Ambassador had indicated that, with the good will of the parties concerned, an agreement might be reached that would enable the Special Rapporteur to overcome some of the difficulties encountered in carrying out his mandate.

76. The principle of the universality of human rights had been established at the World Conference on Human Rights in Vienna in June 1993. He had repeatedly raised that issue with the Iranian authorities, pointing to the need for national or regional interpretations to comply strictly with the relevant international instruments. National laws could dictate the mechanisms for enforcing human rights, but never their content, which was defined in instruments of unquestioned validity such as the Universal Declaration of Human Rights. He and a number of Iranian specialists had in mind a study of the specific implementation problems posed by the principle of the universality of human rights, which might become a major focus of his activities in the event his mandate was renewed.

77. He hoped to be able to submit information on displaced persons and refugees from neighbouring countries in his final report in early 1994. The Islamic Republic of Iran continued to grant asylum to thousands of victims of persecution from neighbouring countries despite the resulting financial burden and the international community's reluctance to provide assistance.

78. He was aware that the number of executions was no longer published in the Iranian press and had obtained a copy of a study by Iranian Government officials asking the media to limit their publication of cases of capital punishment, which would eliminate one of the most reliable sources of information for reports on that question.

(Mr. Galindo Pohl)

79. The report also dealt with the issue of the assassination abroad of Iranian exiles from across the political spectrum. He had included only assassinations attributed to Iranian intelligence agents by the authorities of the countries in which they had been committed. Those assassinations had had a profound impact on the people and groups that provided him with information on the human rights situation in Iran, which undoubtedly explained the decline in the number of visits he received. It was necessary for the Iranian authorities to take immediate steps to stop such activities, which violated the sacred right to life and damaged the country's image abroad.

80. The interim report touched briefly on the administration of justice, the number of persons arrested, the situation in the prisons and the situation of women. The situation of the media, specifically the press, was of particular concern. Over the past two years, the offices of several publications had been attacked, and a number of journalists had been prosecuted. The authorities definitely appeared to be trying to intimidate journalists into strict compliance with official directives.

81. With respect to the situation of the Baha'is, he had recently learned of the execution and sentencing to death of several Baha'is, as well as of instances of discrimination against them involving inheritance, education and damage awards.

82. In his report, he urged the adoption of prompt and effective measures to stop intelligence agents from threatening the lives of members of the opposition living abroad; the amendment of Iran's penal legislation to make punishments proportionate to the degree of the offender's involvement in and responsibility for the offence; the adoption of measures to stop "unauthorized" groups from intimidating journalists; the application of the agreement in force between the Government of Iran and the International Committee of the Red Cross to allow common criminals and political prisoners to receive visits, and the organization of his fourth visit to the Islamic Republic of Iran.

83. In his opinion, the situation of human rights and fundamental freedoms in the Islamic Republic of Iran warranted continued international surveillance.

84. Mr. AL-DOURI (Iraq) said that he had already had occasion to warn against resolutions based on false information and to stress the need to appoint special rapporteurs of good repute who were objective, competent and knew the region. And still Iraq was confronted with an obvious lack of objectivity. It should be remembered that his country had long been independent and should be treated as such. His delegation had not read the report on Iraq (A/48/600) until the previous evening, and it had found it to contain unsubstantiated information aimed at discrediting the country. The Special Rapporteur's allegations were based on information received from Iraqi friends living abroad, far from the embargo and its cruel effects.

(Mr. Al-Douri, Iraq)

85. Furthermore, the Special Rapporteur had no grounds for calling the residents of the southern marsh area indigenous communities, when they came from Yemen, or for maintaining that Iraq was using chemical weapons in that area. If the southern marsh area to which the Special Rapporteur attached such great importance were not part of an area on the border of another country with which the Special Rapporteur had dubious ties, he would not even have mentioned it. The marsh area had been the theatre of military operations for eight years and had been almost completely deserted by its inhabitants, who had returned following the end of hostilities in 1988. The Government of Iraq was in fact anxious to develop that region. Since the Special Rapporteur had deliberately misconstrued the facts, his delegation reserved the right to return to the issue in the coming days.

The meeting rose at 1.15 p.m.